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No. 77-1571.

IN THE

Supreme Court of the United States

October Term, 1977.

DELAWARE,

Petitioner,

v.

WILLIAM J. PROUSE, III.

On Writ of Certiorari to the Supreme Court of the State of Delaware.

BRIEF FOR THE STATE OF DELAWARE.

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BRIEF FOR THE STATE OF DELAWARE.

OPINIONS BELOW.

The opinion of the Supreme Court of the State of Delaware appears as *State v. Prouse*, Del. Supr., 382 A. 2d 1359 (1978) (A20). The opinion of the Superior Court of the State of Delaware is not reported (A16).

JURISDICTION.

The opinion of the Supreme Court of the State of Delaware was filed on February 1, 1978. The petition for certiorari was filed on May 2, 1978 and was granted on October 2, 1978. The jurisdiction of this Court is invoked pursuant to 28 U. S. C. § 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED.

United States Constitution, Amendment Four:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

United States Constitution, Amendment Fourteen, Section One:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; or deny to any person within its jurisdiction the equal protection of the laws."

STATUTES INVOLVED.

This case involves 21 *Del. C.* §§ 2101, 2118, 2142, 2143, 2701, 2705, 2707, 2713, 2721, 2732, 2733 (1974). These provisions are reprinted in the appendix attached hereto (hereinafter cited as Pet. App. —). This case also involves 10 *Del. C.* § 9902(b), (c) (A21), and 16 *Del. C.* § 4754 (A22).

QUESTION PRESENTED.

Are the Fourth and Fourteenth Amendments to the United States Constitution violated when police officers randomly stop motorists to conduct routine driver's license and vehicle registration checks?

STATEMENT OF THE CASE.

During the evening of November 30, 1976, patrolman Anthony Avena of the New Castle County Police Department was on road patrol (A17). At approximately 7:20 p.m. Patrolman Avena stopped an automobile being operated by Respondent, William J. Prouse, III (A17). Prior to stopping Respondent's vehicle the officer had observed no traffic or equipment violations nor any unusual or suspicious activity. Respondent was stopped for a routine spot-check of his driver's license and vehicle registration (A9-10, 17, 21-22).

After stopping Respondent's vehicle, Patrolman Avena approached it on foot. As he got to the back of the vehicle he observed that its window was partly open and he detected the smell of marijuana coming from the vehicle. At that time, the officer asked Respondent and the vehicle's other occupants to step outside. As they complied with his request, the officer observed a cellophane bag protruding from underneath the front seat. The bag, upon closer inspection, was found to contain green plant-like material. The officer then searched the occupants of the vehicle. During this search marijuana was discovered in Respondent's pocket (A8, 17, 22).

Subsequently, Respondent was indicted for Possession of a Non-Narcotic Schedule I Substance in violation of 16 *Del. C.* § 4754 (A22). Respondent, in the Delaware Superior Court, moved for an order suppressing the evidence against him on the ground that it had been obtained during an illegal detention. After an evidentiary hearing, the Superior Court granted Respondent's motion.

Petitioner appealed to the Supreme Court of the State of Delaware pursuant to 10 *Del. C.* § 9902(b), (c) (A3, 21). In affirming the Superior Court ruling, the Delaware Supreme Court held:

> ". . . [a] random stop of a motorist in the absence of specific articulable facts which justify the stop by indicating a reasonable suspicion that a violation of the law has occurred is constitutionally impermissible and violative of the Fourth and Fourteenth Amendments to the United States Constitution. It follows that a random stop solely for the purpose of a documents check is an unreasonable and unconstitutional detention of those in the stopped vehicle." (A28).

The facts of this case have never been in dispute, and they are set out in greater detail in the appendix (A7-13, 17, 21-22).

ARGUMENT.

Random Stops of Motorists to Conduct Routine Driver's License and Vehicle Registration Checks Are Constitutional.

This case calls into question the long standing and commonly accepted police practice of briefly stopping randomly selected motorists for spot-checks of their driver's licenses and motor vehicle registrations. Although any detention of an individual by the police constitutes a seizure under the Fourth Amendment, *United States v. Brignoni-Ponce*, 422 U. S. 873, 878 (1975), citing *Terry v. Ohio*, 392 U. S. 1, 16-19 (1965), the watchword in deciding the constitutional issue herein is the "reasonableness" of stopping a motorist for the limited purpose of conducting a spot-check.

The balancing test the Court has developed to measure the validity of police conduct requires the public interests served by the seizure to be weighed against the seizure's impact on the detained individual's Fourth Amendment interests. *United States v. Martinez-Fuerte*, 428 U. S. 543, 555 (1976), citing *United States v. Brignoni-Ponce, supra*, 422 U. S. at 878, and *Terry v. Ohio, supra*, 392 U. S. at 22. First, the nature and extent of the governmental interests involved must be considered. Factors which are relevant in this regard include the purpose of the stop, the degree of public protection afforded, the public perception of the police conduct, and the availability of alternative effective procedures. Second, the quality and degree of intrusion on individual freedom must be ascertained. The intrusion can be defined by its objective and subjective impact, the individual's expectation of privacy, and the degree of correlation between the individ-

ual's conduct and the intrusive police activity. Finally, the substantial governmental interests advanced by the spot-checks must be compared to the momentary inconvenience they cause.

I. The Governmental Interest Promoted by Random Motor Vehicle Stops Is Direct and Substantial.

A. The Undisputed Purpose of Spot-Checks Is to Enforce Driver's License and Vehicle Registration Laws and Thereby to Promote Public Safety.

Like its sister states, Delaware is vitally concerned with highway safety. This concern embraces the best interest of all of its citizens. On a daily basis the safety of Delaware's roads affects the lives of its workers going to and from their jobs, its homemakers doing their errands, its children in school buses and its pedestrians crossing the streets.

In order to promote highway safety, Delaware regulates the use of its roads. This regulation is effected, in part, through driver's license and motor vehicle registration laws, 21 *Del. C.* §§ 2101, 2701 (1974) (Pet. App. 17, 19). In effect, this case will determine how thoroughly, or even if, these important laws will be enforced.

Pursuant to the license and registration laws, Delaware's Department of Motor Vehicles (D. M. V.) screens and examines nearly every person who wishes to use Delaware's roads,[1] 21 *Del. C.* § 2713 (Pet. App. 22). The D. M. V. is prohibited by law from issuing an operator's permit to a child, drunkard, drug addict, incompetent or anyone whose presence behind the wheel of a moving

1. Only farm equipment operators, road machinery operators and members of the armed forces, when on duty, are exempt from the requirement of having a driver's license, 21 *Del. C.* § 2705 (Pet. App. 3).

vehicle is a threat to himself or others on the highway, 21 *Del. C.* § 2707 (1974) (Pet. App. 19-22). Likewise, the D. M. V. will revoke or suspend the license of anyone who has seriously or repeatedly abused the driving privilege, 21 *Del. C.* §§ 2732, 2733 (1974) (Pet. App. 24-26).

By law, vehicles using Delaware roads must be registered, 21 *Del. C.* § 2101 (1974) (Pet. App. 17). Before being registered, however, the vehicle's owner must be insured, 21 *Del. C.* § 2118 (1974) (Pet. App. 17), and the vehicle must be inspected to determine whether it is in a safe and fit condition to be operated upon Delaware's highways, 21 *Del. C.* §§ 2142, 2143 (1974) (Pet. App. 17-19).

In view of the death and destruction that takes place on the roads of Delaware and throughout the country, the vital importance of a state's regulation of its highways' use cannot be denied. Likewise, the critical role the driver's license and vehicle registration laws play in Delaware's regulatory scheme is beyond dispute.

The Delaware Supreme Court expressly recognized the legitimate state interest in enforcing licensing and registration laws, *State v. Prouse*, Del. Supr., 382 A. 2d 1359, 1364 (1978) (A20 *et seq.*). Many other courts have also acknowledged the importance of similar laws, c.f. *Lipton v. United States*, 348 F. 2d 591, 593 (9th Cir. 1975); *Myricks v. United States*, 370 F. 2d 901, 904 (5th Cir.), *cert. dismissed*, 368 U. S. 1015 (1967);[2] *State v. Holmberg*,

2. The analysis of the Fifth Circuit in *Myricks v. United States, supra*, is most compelling:

> "The Constitution is a living document. If it lives, it must take account of the dominant symbol of today's dynamic society. It must recognize, therefore, that Texas has a legitimate interest in the roadworthiness of automobiles which transport, but which maim and kill. C.F. Ford Motor Co. v. Mathis, 5 Cir., 1963, 322 F. 2d 267, 3 A. L. R. 3d 1002. This comprehends both technical fitness of the driver and the mechanical fitness of the machine. After the event it is always too late. The State can practice preventative therapy by

194 Neb. 337, 221 N. W. 2d 672, 677 (1975); *State v. Allen*, 282 N. C. 503, 194 S. E. 2d 9, 15 (1973); *Leonard v. State*, 496 S. W. 2d 576, 577 (Tex. Crim. App. 1973).

B. Random Spot-Checks Provide Significant Public Protection by Removing From the Roads Unfit Drivers and Vehicles *Before* They Injure, Maim or Kill Innocent People.

A law that is not enforced can provide only minimal public protection, at best. Without random spot-checks, the unlicensed driver or his unregistered vehicle will only be discovered in conjunction with a police investigation of other motor vehicle violations such as failure to stop at a traffic signal or improper lane changes. Unfortunately, such a police investigation often begins at the scene of an accident.

The unlicensed driver does not readily reveal himself in the course of normal highway travel. While able to control a vehicle on a wide thoroughfare, under the watchful gaze of a police officer, the unlicensed driver may cause tragedy minutes later when he passes a stopped school bus or crosses a double yellow line on a hill. Similarly, a motor vehicle with weak and failing brakes only becomes apparent too late, when a child darts out into the street. The random spot-check is a prophylactic measure that provides a high degree of public protection by weeding out potentially dangerous drivers and automobiles before they take their toll in human life and property damage. In addition, the vigilant enforcement of license and registration laws serves as a general deterrent.

2. (Cont'd.)
reasonable road checks to ascertain whether man and machine meet the legislative determination of fitness. That this requires a momentary stopping of the traveling citizen is not fatal."

C. The Motoring Public Accepts Random Stops as a Necessary Incident to the Enforcement of Motor Vehicle Laws.

The spot-check process is not the focus of general public concern. Police patrol cars are a common sight on the highways. One cannot expect to spend more than a few hours on the road without seeing a car pulled over by the police for one purpose or another. The motoring public accepts the police officer's role in enforcing motor vehicle laws. The requirement of a valid driver's license and vehicle registration is no less significant a motor vehicle law than is a speed limit or no-passing law.

Each of these laws must be enforced in order to provide for safe highway travel, and it is in recognition of this fact that the motoring public accepts the spot-check procedure. As this Court has already noted:

> ". . . [The] practice of stopping automobiles briefly for questioning has a long history evidencing its utility and is accepted by motorists as incident to highway use." *Martinez-Fuerte, supra*, 428 U. S. n. 14 at 560.

D. The Random Spot-Check Is the Only Effective Means of Enforcing Driver's License and Vehicle Registration Laws.

The Supreme Court of Nebraska has held, "The only practical method of enforcing the licensing laws involved is by stopping the vehicle." *State v. Holmberg, supra*, 231 N. W. 2d at 675. Similarly, the Ninth Circuit has held that other than by a spot-check, "[n]o nother way was available to the officer to determine whether appellant possessed the required license," *Lipton v. United States, supra*, 348 F. 2d at 593, followed by the Supreme Court of North Carolina in *State v. Allen, supra*, 194 S. E. 2d at 14.

License and registration spot-checks are all the more effective because they directly monitor the activity in question—driving. This is in contrast to spot-checks conducted for some special purpose, *e.g.*, border patrol stops, *Brignoni-Ponce, supra,* 422 U. S. n. 8 at 883. The only reason why spot-checks are used to apprehend illegal aliens and those who exploit them is that the majority of illegal aliens enter this country by car and then rapidly disperse inland after crossing the border, *Id.* at 878-879. The most efficient way to catch them is to do it while they are close to the border and in vehicles. Despite the fact that the immigration laws serve a basically economic function with little connection to highway use, even they may be reasonably enforced by random checkpoint stops, *Martinez-Fuerte, supra,* 422 U. S. 543.

One of the major reasons why roving border patrol stops were prohibited absent reasonable suspicion, *Brignoni-Ponce, supra,* 422 U. S. 873, while permanent checkpoint stops were approved, *Martinez-Fuerte, supra,* 428 U. S. 543, was the finding that checkpoints are less intrusive but just as effective as roving stops. *Id.* 428 U. S. 558-559. While this finding is apt in connection with enforcement of immigration laws at or near the border, it is less useful where drivers are not forced to cross a fixed line. Permanent license and registration checkpoints in Delaware would simply be places to avoid. Lines of registered vehicles with licensed drivers would form at the checkpoints while the unregistered vehicles and unlicensed drivers would move by alternative routes. Unlicensed operators would be able to drive about with impunity, knowing that they would not be stopped unless they were actually observed driving erratically or were so foolish as to drive through a checkpoint.

The only other alternative is the temporary roadblock—a totally unworkable device in a major city and

hardly more effective on a country road. Moreover, there is nothing to suggest that an innocent driver coming upon a roadblock on a deserted, rural road would be any less alarmed or inconvenienced than a driver pulled over for a spot-check as was conducted in this case.[3]

II. The Intrusion to Motorists Caused by License and Registration Checks Is No More Than a Minor Inconvenience.

The inconvenience experienced by the individual motorist who is stopped for a routine license and registration check has been described variously as "quite limited", *Martinez-Fuerte, supra,* 428 U. S. at 558, "modest", *Brignoni-Ponce, supra,* 422 U. S. at 550, "relatively slight", *Holmberg, supra,* 221 N. W. 2d at 675, and "momentary", *Myricks, supra,* 370 F. 2d at 904; *Leonard, supra,* 496 S. W. 2d at 577.[4] Typically, a spot-check begins when a marked police car, using its revolving lights, signals a motorist to stop. After the police car and the motorist come to a halt, the uniformed officer approaches the stopped motorist on foot. When the police officer reaches the automobile, he

3. This line of reasoning is not meant to suggest that expedience is a substitute for reasonableness. We submit that when the full weighing process is applied to spot-checks they will be found constitutionally acceptable. However, less-restrictive-alternative arguments must be anticipated.

4. *United States v. Montgomery,* 561 F. 2d 875, 880 (D. C. Cir. 1977) holds:

> "The stop is not momentary; but leads to delay—several minutes—to complete a radio check for outstanding traffic warrants."

In this case no one contends that a police officer is permitted to continue to detain a motorist once the motorist produces a license and registration in the proper form. The spot-check envisioned here does not involve a radio check. It may well be that the "reasonable suspicion" standard set forth in *Terry, supra,* 392 U. S. at 29, should be applied in passing on the reasonableness of a license and registration check followed by a radio check.

asks for the operator's license and vehicle registration. If the two documents are in order, the motorist is allowed to proceed. The entire procedure should take no more than a minute or two. The motorist does not have to wait for other cars to be checked. Unless something tangible causes the police officer to suspect that criminal activity is in progress, the motorist will not be touched (frisked) or even asked to step out of his vehicle.

A. Random Spot-Checks Have Minimal Objective or Emotional Impact on Innocent Motorists.

Objectively, the motorist who is stopped for a spot-check experiences one intrusion—inconvenience. The motorist is delayed for a few minutes and must produce his license and vehicle registration. Brief delays, however, are inherent in traveling by automobile. Motorists are continuing delayed by traffic lights and traffic snarls. As much as they relish unimpeded travel, motorists also expect to arrive at their destinations safely. The occasional sacrifice of a few minutes is amply repaid by increased highway safety.

Even when viewed subjectively, random stops do not significantly intrude upon the sanctity of the individual. Seeing the "360°" light in the rear-view mirror may cause momentary anxiety and perhaps annoyance. However, being stopped in such a manner is hardly stigmatizing nor even frightening. Moreover, whatever momentary discomfort a traffic stop may cause is quickly dispelled when the police officer announces his purpose.

The minimal nature of the intrusion they cause is highlighted when traffic stops are compared to other seizures which have been held to be reasonable. Under *Terry, supra,* 392 U. S. 1, a suspect may be frisked in front

of his friends on a public street if he behaves "suspiciously." Under *Martinez-Fuerte, supra,* 428 U. S. 543, a motorist may be stopped and forced to show proof that he is entitled to be in this country simply because he drove up to a checkpoint miles from any border.

B. Spot-Checks Do Not Interfere With Any Reasonable Expectation of Privacy.

The expectation of privacy to which a person in an automobile is entitled is significantly less substantial than the expectation of a person at home, *Carroll v. United States,* 267 U. S. 132. Similarly, the right to be free from inquiry is significantly less substantial than the right to be free from search, *Martinez-Fuerte, supra,* 428 U. S. at 555-556.

It is not realistic to expect to be able to operate a vehicle on the open road without being subjected to the scrutiny of others. Any accident or breakdown will subject the motorist to public exposure. Even a traffic light presents an opportunity for a public encounter.

The invasion of privacy a spot-check entails involves nothing more than identifying ~~one~~self to a police officer. This intrusion does not begin to compare with the indignity of a strip-search, or a public frisk. Further, the intrusion is of a fleeting nature.

C. The Exact Correlation Between Traffic Stops and the Laws They Enforce, Reduces the Intrusiveness of Such Stops.

The significance of the direct relationship between spot-checks and driving cannot be overstated. The police conduct in question here had no other purpose than to enforce Delaware's traffic laws. Like all other drivers, the Respondent was continually bringing the traffic laws to

bear upon himself as he proceeded down the road. The connection between driving and the motor vehicle laws stands in sharp contrast to the connection between driving and the immigration laws.

The intrusion inherent in a traffic stop where the motorist must show proof that he is licensed to drive is minimal even when viewed in isolation. This minimal intrusion is reduced further when compared with the intrusiveness of a vehicle stop where the motorist is required to prove that he has a right to be in this country. Nevertheless, the latter is constitutionally acceptable. See, discussion of *Martinez-Fuerte, supra,* 428 U. S. 543, on p. 10.

III. The Important Governmental Interest in Public Safety, Advanced by Random Spot-Checks, Must Prevail When Balanced Against the Limited Intrusion of a Momentary Stop.

The issue before this Court is simply whether random spot-checks for license and vehicle registration are "reasonable." Naturally, the same conduct which is reasonable in one context may be totally unacceptable in another. Thus, the police conduct under review in this case as measured by its purpose and value, must be weighed against the personal infringement it causes in order to determine its reasonableness.

There can no longer be any argument about the state's significant interest in the enforcement of its laws and in the protection of its citizens' safety. It is also beyond dispute that random license and registration spot-checks advance these fundamental governmental interests both directly and as a deterrent.

The intrusion, on the other hand, involves nothing more than a delay of several minutes during which two documents, a driver's license and motor vehicle registration, must be produced. The stopped motorist is necessarily on a public street, where at least minimal visual and aural contact with other motorists is expected. Patrol cars are common sights deserving of no special concern. The environment surrounding this momentary detention, therefore, is both public and unforbidding.

When applying the appropriate balancing test it is clear that the police conduct is reasonable and hence constitutionally permissible. The only question remaining is whether the Court will reach a constitutional decision actually predicated upon balancing interests.

Several of the lower courts that have passed upon the constitutionality of spot-checks and found such practices unconstitutional, including the Delaware Supreme Court in this case, 382 A. 2d at 1364 (A28), have abandonded the balancing test. They have done this because they are concerned that the spot-checks will become a device to perpetuate discrimination or an excuse for "fishing expeditions" to find evidence of other crimes, c.f. *United States v. Montgomery,* 561 F. 2d 875, 883 (D. C. Cir. 1977); *Commonwealth v. Swanger,* Pa. 307 A. 2d 875, 879 (1973).

It is of controlling significance that in this case absolutely no allegation has been made that Respondent was stopped as a result of any improper motive on the part of the police officer. The spot-check here was random in the most positive sense of the word. To rule that random stops are unconstitutional simply because they may be abused in some situations not presently before the Court, is to say that "random" has no meaning and also is to concede that the Courts cannot recognize and condemn discrimination or harrassment when necessary.

When this Court decided *Terry v. Ohio, supra,* 392 U. S. at 14-15, it expressly recognized the potential for abusing the stop and frisk procedure approved there.

Nevertheless, the Court stood ready to counter any abuses that might have arisen.

In *Terry, Id.*, this Court eschewed "a rigid and unthinking application of the exclusionary rule, in futile protest against practices which it can never control." Nevertheless, the Delaware Supreme Court adopted what it termed "a rigid invalidity rule." 382 A. 2d at 1364 (A28). This Court has already held that such rigid rules ". . . may exact a high toll in human injury and frustration of efforts to prevent crime." *Terry, supra,* 392 U. S. at 15.

In closing, it would be regrettable to cast aside an effective, perhaps the most effective, means of enforcing laws designed to protect lives and, at the same time, place an additional burden on the state simply because of the theoretical possibility of discrimination.

CONCLUSION.

For the foregoing reasons, the decision of the Supreme Court of the State of Delaware and the order of dismissal entered in the Superior Court of the State of Delaware should be reversed.

Respectfully submitted,

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November, 1978

Appendix.

STATUTES INVOLVED

21 Del. C. § 2101 (1974). Operation of unregistered vehicle; exception:

> No person shall drive or move, nor shall any person, being the owner of a vehicle, knowingly permit to be driven or moved upon any highway any vehicle, except trackless trolley coaches of a type required to be registered hereunder, which is not registered and for which current registration plates have not been issued as provided in this chapter or for which the appropriate fees have not been paid when and as required by this chapter, except that when application accompanied by the proper fee has been made for registration and certificate of title for a vehicle, the same may be operated temporarily pending complete registration upon displaying a duplicate application duly verified or other evidence of such application or otherwise under rules and regulations promulgated by the Department.

21 Del. C. § 2118 (1974). Requirement of insurance for all motor vehicles registered in the State; penalty:

> (a) No owner of a motor vehicle registered in this State, other than a self-insurer pursuant to § 2906 of this title, shall operate or authorize any other person to operate such vehicle unless the owner has insurance on such motor vehicle providing the following minimum insurance coverage.

21 Del. C. § 2142 (1974). Purpose of inspections:

> Inspection shall be for the purpose of determining whether a vehicle is in a safe and fit condition to be

operated upon the highways of the State, and whether it is equipped in the manner provided by law.

21 Del. C. § 2143 (1974). Inspection of motor vehicle before registration; exception; vehicles outside state:

(a) Before the Department registers, renews the registration of, or reregisters a motor vehicle required to be registered under the provisions of this title, such vehicle shall first be inspected by the Department and determined to be safe and fit for operation and found equipped according to law. The Department may waive such inspection requirement with respect to the registration of new motor vehicles.

(b) Upon application, subject to approval by the Secretary, the Department may waive such inspection requirements with respect to the renewal of registration of a vehicle registered in this State which is not in this State at the time the inspection is required, provided that an out of state inspection, certified on forms prescribed by the Secretary, is submitted to the Department. It shall be the duty of the owner of any vehicle so inspected to submit such vehicle for inspection by the Department within 10 days after the vehicle is returned to this State.

(c) Upon application, subject to the approval by the Secretary, the Department may waive such registration requirements with respect to new or used motor vehicles where a fleet account is involved. A fleet account shall consist of 15 or more vehicles. The inspection requirements may be waived provided there are adequate inspection and repair facilities at the fleet headquarters. Such fleet account waiver shall not apply to fleets of school buses which transport pupils of any public, parochial or private school of the State.

21 Del. C. § 2701 (1974). Driving without a license; penalties:

No person shall drive a motor vehicle on a highway of this State without having been licensed as an operator or chauffeur under this chapter, unless expressly exempt from the licensing requirements. A person who is found in violation of this section shall for the first offense be punished by a fine of not less than $50 nor more than $200. For each subsequent like offense, he shall be fined not less than $100 nor more than $500 or imprisoned for a term not to exceed 6 months or both.

21 Del. C. § 2705 (1974). Persons exempt from licensing requirements:

(a) No person shall be required to obtain an operator's or chauffeur's license for the purpose of driving or operating a road roller, road machinery or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways.

(b) Every person in the service of the Army, Navy, Air Force or Marine Corps of the United States, and furnished with a driver's permit, shall be exempt from licensing under this chapter when operating an official motor vehicle in such service.

21 Del. C. § 2707 (1974). License qualifications:

(a) An operator's license shall not be issued to any person under the age of 16 years. A chauffeur's license shall not be issued to any person under the age of 18 years nor to any person 18 years of age or

older who has not had at least 1 year's previous experience as an operator of a motor vehicle.

(b) The Department shall not issue an operator's or chauffeur's license to any:

(1) Person whose license, either as an operator or chauffeur, has been suspended. during the period for which the license was suspended;

(2) Person whose license, either as operator or chauffeur, has been revoked under this chapter until the expiration of 1 year after such license was revoked;

(3) Person whom it has determined is an habitual drunkard or is addicted to the use of narcotic drugs;

(4) Applicant who has previously been adjudged mentally ill or an idiot, imbecile or feebleminded and who has not at the time of such application been restored to competency by judicial decree or released from a hospital for the mentally ill or feebleminded upon a certificate of the superintendent that such person is competent or then unless the Department is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

(5) Person when in the opinion of the Department such person is afflicted with or suffering such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways.

(6) Person who is unable to understand highway warning or direction signs in the English language;

(7) Person who is subject to losses of consciousness due to disease of the central nervous system, unless such person furnishes the Department with the certificate of 2 physicians duly licensed to practice medicine and surgery in this State that such person's infirmity is under sufficient control to permit him or her to operate a motor vehicle with safety to person and property. Each person licensed to operate a motor vehicle on the basis of such certificate shall furnish the Department with a new certificate each year not later than the anniversary date of the issuance of the license and not earlier than 45 days before said date which certificate shall show that on the basis of an examination within said period a physician duly licensed to practice medicine and surgery in this State has determined that the infirmity remains under sufficient control to permit the person to operate a motor vehicle with safety to person and property. Except as provided below, if such certificate is not received by the Department within 7 days after the anniversary date of the license, the Department shall revoke said license and shall notify its holder.

The above provision of this subparagraph notwithstanding, if 2 physicians duly licensed in this State furnish the Department with a certificate that the disease no longer requires treatment, and that the person can reasonably be expected to suffer no further losses of consciousness on its account, the Department may find

that the person need no longer submit annual certificates of his or her competence to operate a motor vehicle and shall notify the person accordingly. The Department may at its discretion retain medical consultants to advise it. No physician who examines a person and provides a certificate in good faith in accordance with this subparagraph shall be subject to any civil or criminal liability on account of having provided the certificate.

(8) Person who has not reached his 18th birthday and who has not successfully completed a course in driver education in a public or private high school in this State, such course having been approved by the State Board of Education and meeting the standards for such courses described by that Board.

21 Del. C. § 2713 (1974). Examination of applicants; waiver of examination:

(a) The Department shall examine every applicant for an operator's or chauffeur's license before issuing any such license, except as otherwise provided in subsections (b) and (c) of this section. The Department shall examine the applicant as to his physical and mental qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to whether any facts exist which would bar the issuance of a license under this chapter. Such examination shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to operate a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter.

(b) The Department may in its discretion waive the examination of any person applying for the renewal of an operator's or chauffeur's license issued under this chapter.

(c) The Department may in its discretion issue an operator's or chauffeur's license under this chapter without examination to every person applying therefor who is of sufficient age, as required by § 2707 of this title, to receive the license applied for and who at the time of such application has a valid unrevoked license of like nature issued to such person under any previous law of this State providing for the licensing of operators or chauffeurs or to any person who at the time of such application has a valid unrevoked license of like nature issued to such person in another state under a law requiring the licensing and examination of operators and chauffeurs.

21 Del. C. § 2721 (1974). Duty to sign and carry license:

(a) Every person licensed as an operator or chauffeur shall write his usual signature with pen and ink in the spaces provided for that purpose on the license certificate and such license shall not be valid until the certificate is so signed.

(b) The licensee shall have such license in his immediate possession at all times when driving a motor vehicle and shall display the same upon demand of a uniformed police officer, justice of the peace, peace officer or motor vehicle inspector. It shall be a defense to any charge under this subsection if the person so charged produces in court an operator's or chauffeur's license theretofore issued to such person and valid at the time of his arrest.

21 Del. C. § 2732 (1974). Mandatory revocation of license:

(a) The Department shall forthwith revoke the license or driving privilege or both of any person upon receiving a record of the conviction of such person of any of the following crimes:

(1) Manslaughter resulting from the operation of a motor vehicle;

(2) The crime of assault in which a motor vehicle is used and the death of a human being results;

(3) Driving a vehicle while under the influence of intoxicating liquor or narcotic drug;

(4) Perjury or the making of a false affidavit to the Department under this chapter or any other law of this State requiring the registration of motor vehicles or regulating their operation on highways;

(5) Any crime punishable as a felony under the motor vehicle laws of this State or any other felony in the commission of which a motor vehicle is used;

(6) Conviction or forfeiture of bail upon 3 charges of reckless driving all within the preceding 12 months; but no license shall be revoked by reason of any conviction or convictions upon the charge of overloading any vehicle as provided in § 4503 of this title;

(7) A conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge

of failing to stop and disclose his identity at the scene of the accident;

(8) A conviction of attempting to flee or or elude a police officer after having received a visual or audible signal from him as provided in § 4103(b) of this title.

(b) Upon receiving a record of the failure of a convicted person to pay a fine, costs or both as described in § 2731(b) of this title, the Department, or its succesor, shall (1) if the convicted person is a resident of this State, forthwith suspend his license until the fine, costs or both have been paid, and (2) if the convicted person is a nonresident of this State, forthwith suspend his driving privileges in this State and immediately advise the Motor Vehicle Administrator of the state wherein the convicted person is a resident that the convicted person has failed to pay a fine, costs or both due and owing to this State and requesting that the convicted person's license to drive be suspended until the fine, costs or both have been paid.

21 Del. C. § 2733 (1974). Discretionary suspension or revocation of license:

(a) The Department may immediately suspend the license and driving privileges or both of any person without hearing and without receiving a record of conviction of such person of crime whenever the Department has reason to believe that such person:

(1) Has committed any offense for the conviction of which mandatory revocation of license and driving privileges or both is provided in § 2732 of this title, but no license shall be suspended by reason of any conviction or convictions

upon the charge of overloading any vehicle as provided in § 4503 of this title;

(2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person or serious property damage;

(3) Is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for such person to drive a motor vehicle upon the highways;

(4) Is an habitual reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws of this State;

(5) Has violated subdivision (2) of § 2741 of this title;

(6) Has violated § 6702 of this title.